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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,588	01/10/2000	ROBERT LEONARD FULKS	9D-HR-19163-	4504

7590... 08/26/2004  
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EXAMINER

JEFFERY, JOHN A

ART UNIT PAPER NUMBER

3742

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/480,588

**Applicant(s)**

FULKS, ROBERT LEONARD

**Examiner**

John A. Jeffery

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Title of Invention***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Radiant Heating Element Reflective Bracket With Ventilation Openings."

### ***Claimed Subject Matter Not in Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP 608.01(o). Correction of the following is required:

The specification must discuss the first and second ventilation openings extending obliquely to one another as claimed in claim 10. According to Merriam-Webster's online dictionary, the term "oblique" is defined as "neither perpendicular nor parallel: inclined." *Merriam-Webster Online Dictionary*, at <http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=oblique> (last visited Aug. 26, 2004).

The examiner presumes for examination purposes that the obliquely-disposed openings 36 result from forming the parabolic shape channel in Fig. 1.

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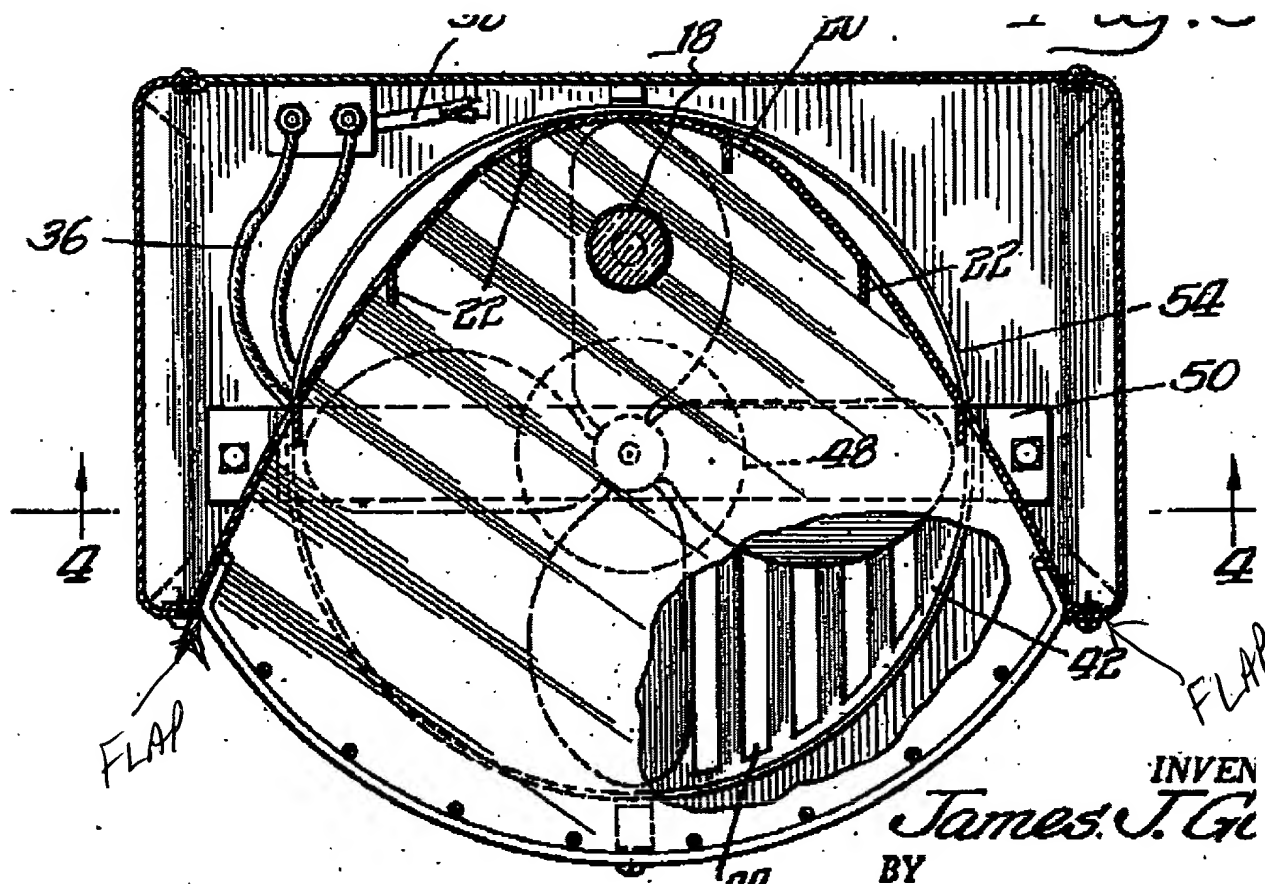
***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10, 11, and 13-16 are rejected under 35 USC 102(b) as being anticipated by Gough (US 2,410,211). The scope and breadth of the claim language did not preclude the citation of Gough (US 2,410,211) who discloses a reflective "bracket" 14 comprising a parabolic channel with longitudinal ventilation openings 20. See Figs. 1-3. Each ventilation opening has a "shield" 22 integral with the channel. Lateral openings 26 extend along opposite sides of the channel. Regarding claim 7, note the unlabeled "flap" extending from the channel sides as indicated on an enlarged reproduction of Fig. 3 of Gough (US 2,410,211) below.



Also, regarding claim 15, "holding bracket" 24 extends from the channel and comprises a plurality of "fingers" 28.

### ***Claim Rejections - 35 U.S.C. § 103(a)***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gough (US 2,410,211) in view of DE892950. The claims differ from the previously cited prior art in calling for the holding bracket to be integrally formed with the channel. But forming holding brackets integral with a reflective channel is conventional and well known in the art as evidenced by DE892950 noting integral "holding brackets" 14 in Fig. 4. By forming such brackets integrally, the structure can be fabricated from a single sheet of metal thus reducing apparatus parts and precluding the need for fasteners. In view of DE892950, it would have been obvious to one of ordinary skill in the art to form forming the holding brackets of Gough (US 2,410,211) integrally so that the structure can be fabricated from a single sheet of metal thus reducing apparatus parts and precluding the need for fasteners.

#### ***Allowable Subject Matter***

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Other Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should (1) separately consider the art, and (2) consider

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the art together with the previously cited prior art for potential applicability under 35 U.S.C. §§ 102 or 103 when responding to this action. US Pats. 820, 758, 137, 017, 834, 861, 563, 225, GB 182, and DE 923 disclose reflective brackets with ventilation openings relevant to the instant invention.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Jeffery whose telephone number is (703) 306-4601. The examiner can normally be reached on Monday - Thursday from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans, can be reached on (703) 305-5766. All faxes should be sent to the centralized fax number at (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)

A handwritten signature in black ink, appearing to read "John A. Jeffery", with a stylized flourish at the end.

**JOHN A. JEFFERY  
PRIMARY EXAMINER**

**8/26/04**